

United States District Court  
Eastern District Court of New York  
United States Court of Appeals  
United States Federal Court of Claims  
225 CADogan Plaza East  
Brooklyn New York, New York 11201

Serial Security Claim number redacted (4850)

Hermon Carlee M. Million

Plaintiff #9015238

vs. Against

New York Department of Correc-  
-tions Superintendent Har-  
-old Graham Correction  
officers John Doe 1 through  
10, Correctional Guard Daniel  
Walters, District Attorney  
Robert Thomas Johnson

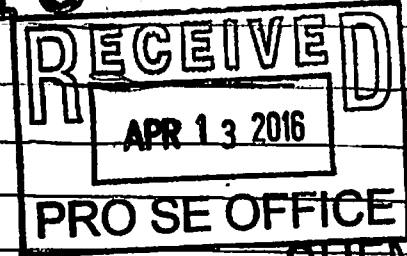
Defendants

Civil Complaint  
284 USCS 1983

ORIGINAL

CV 16

02205



CHEN, J.

GO, M.J.

on or about Jan 28, 2016-10:45 AM The Guard  
Daniel Walters ran up into my cell and attacked  
me I absolutely did not fight back because  
of my CP Article 730.20 Subdivision 1  
This is Judicial Exemption it shows a preve-  
-s there is no reasonable cause for the court  
to believe Mr. Million committed  
the charged felony and it shows that I am  
innocent of the crime New York State accused me  
of ~~murder~~ and erroneously convicted me  
of December 3, 1990. And I am not looking  
for a new charge for attacking any person  
And the fact that I don't need medical  
trouble the correction Department is  
denying me medical attention the  
keep my lights out all of the time.

They refuse to wash my clothes I must wash them myself.

This looks like a case like Jon Burge case in Chicago. However, at one point I did not have the proper name for my attacker in time the ~~the~~ State District attorney provided me the proper name for me which is Daniel Walters

When I was assaulted by Correction Officer Daniel Walters in relation and regard to the CPL Article 730.20 Subsection (1); number one (1) it proves two material facts for purpose of Judicial Evidence that McMillian is not a violent dangerous incapacitated criminal person.

Here on the other hand it should prove that McMillian was assaulted by Correction Officer Daniel Walters. Why is not the question. The question is did this officer assault McMillian? Like unto ~~Jon Burge~~

Jon Burge ~~was a~~ Captain/Commander in Chicago who had his men under his command torture confession from Black African American suspects in Chicago, and ~~Jon Burge~~ Jon Burge was found guilty of lying about about torture he over ~~said~~ said. Jon Burge was fired from the Force and did federal time in prison while being

The estate's representative has established that a contribution of one who is actually married to a husband can

released from a halfway house in Chicago in 2013. Why did this correction officer assault me?!!  
 I can only think torture!!  
 Because the officer keep saying that M. Williams is guilty as charge.  
 Here I saw several reasons why this officer ran up into the cell and attacked M. Williams.  
 The question is, is this a violation of the law, of M. Williams' constitutional rights, results a fifth amendment violation.  
 What I understood is that this happened

on or about 10:15 Thursday morning I was attacked in Auburn Correctional Facility I was attacked by correction officer Daniel Walters because he brought this paper sent by the Department of Parole and I took the fifth amendment in front of the Parole Board. So I am not even doing parole because one must pursue parole. And I have not pursued parole because I pleaded innocence in the trial court and in parole in front of the parole Board and in front of the entire quasi Administration.  
 I did pursue good time I don't want or expect any good time because I pleaded innocence in front of the Judge and the Parole Board. Yet they the Department send me all of these papers from parole. I throw them away.  
 Officer Daniel Walters brought papers sent to me by parole saying that I was a rapist/SIC and child molester. I spat on that paper since paper was addressed to me and spat on that paper since the paper was addressed to me. The Guard Daniel Walters took exception to this act and attacked me, busting my upper lip inside of my mouth, striking twice. I had no intention fighting with this officer.



Even though I need him (correction officer Daniel Walters) have been served by the U.S. Department of Justice United States Marshals service Northern District of New York. I have no intention of violating that CPL 730.20 Subdivision 7.

~~I~~ I have already told this officer I need him, so he had a motive to ~~that~~ attack me. My lip was busted up pretty bad, it was the upper, left side, upper cheek, inside of my mouth. Surely this assault ~~on~~ ~~my~~ ~~part~~ I had to go on the sentence.

Surely Mr. Millian is under imminent danger of serious physical injury and the officer refused me medical attention asked the sergeant at the mess hall and the sergeant in the block they both refused me medical attention. It is easy to see that they are all turned against me and must respond myself to filing my lawsuit about what happened to me.

The Guard have no evidence to support his allegation in regard to these charges unsupported with any evidence. This Guard calls me all of these names (unsupported) with any evidence what so ever.

Prade  
By Hermann Carlee M. Millian

(Merit)

Privilege against self-incrimination criminal law. A right against self-incrimination criminal law. A criminal Defendant's right not to be asked any questions by the judge or prosecution unless the defendant chooses to testify also termed right not to be questioned.

According to the rule neither the judge nor the prosecution is entitled at any stage to question the accused unless he chooses to give evidence. .... This rule may be called ~~rule~~ the accused's right not to be questioned, in America it is termed the privilege against self-incrimination. The latter expression is more apt as the name for another rule. The privilege of only a witness to refuse to answer an incriminating question this is different from the rule under discussion which applying only to persons accused of crime prevents the question from being asked. The person charged with the crime has not merely the liberty to refuse to answer a question incriminating himself he is obliged even the embarrassment of being asked the question. Hammill Williams The proof of Guilty 37-38 36 EC (1962)

Judicial Evidence  
Mental Health Records  
CPL Article 130.20 Subdivision 1

(1) (2) (3) The record amply supports the court's determination that defendant is not a Dangerous Violent Incapacitated Criminal person. A Dangerous Violent Criminal who has either committed a violent crime against any person and McMillian have not committed any crime against any person. A category of criminal offense in which the perpetrator uses or threatens the use of force. Example include Murder, rape, aggravated assault and robbery also termed crimes against persons. C.F. Offense (1). McMillian is not an incapacitated person who is impaired by an intoxicant, by mental illness or deficiency or by physical illness or disability to any ~~degree~~ ~~the extent~~ the extent that personal decision making is impossible. Therefore, McMillian is not an incapacitated person. Therefore, there is no reasonable cause for the court to credibly believe that McMillian committed charged felony. (People v. Robustelli 189 A.D. 2d 668, 672 N.Y.S.2d 177, 675 N.E.2d 234) Properly accepted the conclusions of the Psychiatrist who evaluated defendant at great length in a hospital setting.

~~Petition application in Motion.~~  
~~There is no evidence that any of the~~  
~~signers of the petition are~~  
~~and I have no way of knowing~~  
~~and I have no way of knowing~~  
~~that the~~



Defendants' irrational refusal to cooperate with attorney at various stages of the process. S.E.E. 148 Misc. 2d 738, 576, 96 N.Y.S. 2d 312 did not establish incompetency to stand trial (S.E.E. People v. Sullivan 78 A.D. 2d 398, 409, 369 N.Y.S. 2d 903, 386 N.Y. 2d 378, 352 N.E. 2d 586).

[4] The competency hearing was not procedurally defective. The initial examination by two psychiatrists complied with the requirement of CPL 736.20 Subdivision (1) and the hearing court after honoring defendants' right to call an expert witness at the hearing had discretion to deny on grounds of unreasonable delay examination by yet another (S.E.E. People v. Christopher 5 N.Y. 2d 1417, 425, 492 N.Y.S. 2d 566, 482 N.E. 2d 445).

(The sentence runs out this year)  
 An Injunctive relief is on  
 the interrogatory and  
 I demand my release  
 from prison ~~once~~  
~~once~~ this time  
 because the state has  
 no evidence to support the charges  
 except for the Article 730.20  
 Subdivision (1) and it shows that  
 there is no reasonable cause  
 to believe that the defendant  
 committed the charged felony respectfully  
 submitted.

~~Arthur J. Casanova~~ ESq  
ELB

Attorney General of the State of New York  
~~100 Broad Street~~  
~~New York, NY 10038~~

Copy of Petition as successive affidavits  
on ~~Sept 14, 2007~~ ~~Sept 14, 2007~~

Medical Evidence of Mental Health Record of the County Court of  
Judicial Evidence of the County Court of  
Utica New York on the  
8th of May 2012

State of New York  
County Court County of Oneida  
In the matter of Commitment  
Name, Social Security Admin Release Order  
Registration Claim Number M H NO: 12-0311  
is Herman Charles McMillian  
(4950) (AKA) Commitment name  
only is Herman ~~McMillian~~  
~~McMillian~~ it is a  
Socially unacceptable name  
without a Social Security  
Claim number

Against

A Patient admitted to central  
New York Psychiatric Center

The above named patient now hospitalized  
Pursuant to Article 9 of the Mental Hygiene  
Law and an application dated 4/30/12 for  
for the Patient's Commitment, having  
made by the Director of the above  
hospital Pursuant to Correctional Law  
and a Request for a hearing having been  
and a hearing having been held

on the 8th day of May, 2012, and testimony having been received of Patients treating Psychiatrists, and the patient having appeared by mental hygiene legal service Fourth Judicial Department Committee. Creahan Director, by Elizabeth S. Fortune ASSOCIATE ATTORNEY and the above-named hospital having appeared by the Office of the the new York State Attorney General Eric J. Schneiderman Ryan W. Hekey ASSISTANT ATTORNEY General, And it appearing to my satisfaction that the patient is not mentally ill that essential for said Patients Welfare and said Patients judgment is not so impaired that said patient is unable to understand the need for such care and a danger to himself or others and due deliberation thereon having been held: it is hereby

ORDERED: that, the continued commitment of the patient is hereby denied and that the patient shall be released from the above named Hospital forthwith

Filed Oneida County AM: 10:11  
ordered that the Court record of this proceeding shall be sealed by the Oneida County Clerk of the Office and will only be available to the Parties in this Proceeding or upon further



☐ ORIGINAL

**\*CIVIL RIGHTS COMPLAINT**

42 U.S.C. § 1983

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
*Herman Carlee M. Millian*  
Full name of plaintiff/prisoner ID#

Plaintiff,

JURY DEMAND

YES ☒ NO ☐

-----X  
-against-

*Superintendent Harold J. Graham Correctional Center Daniel  
District Attorney Robert Thomas Johnson one through 10  
Correctional Center John Doe,*

Enter full names of defendants

[Make sure those listed above are  
identical to those listed in Part III.]

Defendants.  
-----X

**FILED**  
IN CLERK'S OFFICE  
US DISTRICT COURT E.D.N.Y.

★ APR 13 2016 ★

I. Previous Lawsuits:

BROOKLYN OFFICE

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment? Yes ( ☒ ) No ( ☐ )
- B. If your answer to A is yes, describe each lawsuit in the space below (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

1. Parties to this previous lawsuit:

Plaintiffs:

*Herman Carlee M. Millian*

Defendants:

*Superintendent Harold J. Graham Correctional Center Daniel Walters  
District Attorney Robert Thomas Johnson one through 10  
John Doe Correctional Center*

2. Court (if federal court, name the district; *northern District*  
if state court, name the county) *northern District*

3. Docket Number: *9:15-CV-01303 9:15-CV-00241*

4. Name of the Judge to whom case was assigned:

Judge Mary L. Spina  
Chief Judge Thelma

5. Disposition: (for example: Was the case dismissed? Was it appealed? Is it still pending?)

Both cases Pending

6. Approximate date of filing lawsuit:

Jan 21, 2015

7. Approximate date of disposition:

Oct, 2015

II. Place of Present Confinement:

DuBourc Correctional Facility, Box 108  
Auburn New York, 13024

A. Is there a prisoner grievance procedure in this institution? Yes ( ) No ( )

B. Did you present the facts relating to your complaint in the prisoner grievance procedure? Yes (✓) No ( )

C. If your answer is YES,

1. What steps did you take?

I complained to the superintendant He rides rough shodder over my Habeas Corpus

2. What was the result?

No result

D. If your answer is NO, explain why not

they are still saying I am guilty and I am not. They have no evidence to support that charge

E. If there is no prison grievance procedure in the institution, did you complain to prison authorities? Yes ( ) No ( )

F. If your answer is YES,

1. What steps did you take?

I Filed lawsuit

2. What was the result?

Case is Pending with the Court for now

III. Parties:

(In item A below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of plaintiff Hermour Carlee McMillian  
Address P.O. Box 618 Auburn New York 13024

(In item B below, place the full name and address of each defendant)

B. List all defendants' names and the addresses at which each defendant may be served. Plaintiff must provide the address for each defendant named.

Defendant No. 1 Superintendent Harold Graham  
Auburn Correctional Facility  
Auburn New York 13024

Defendant No. 2 Correctional Officer Daniel Walters  
Auburn Correctional Facility  
Auburn New York 13024

Defendant No. 3 District Robert Thomas Johnson  
Auburn Correctional Facility  
Auburn New York 13024

Defendant No. 4

Defendant No. 5

[Make sure that the defendants listed above are identical to those listed in the caption on page 1].

## IV. Statement of Claim:

(State briefly and concisely, the facts of your case. Include the date(s) of the event(s) alleged as well as the location where the events occurred. Include the names of each defendant and state how each person named was involved in the event you are claiming violated your rights. You need not give any legal arguments or cite to cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. You may use additional 8 1/2 by 11 sheets of paper as necessary.)

On or about Jan 28, 2016, 10:45 AM The Guard Daniel Walters  
 came up into my cell and attacked me. I also later did  
 not fight back because of my CPL Article 730.20 Subdivision  
 (1) This is Judicial Evidence, it shows an answer,  
 there is no reasonable cause for the court to believe Mc  
 Millian committed the charged felony and it shows that  
 that I am innocent of the crime New York State accuse  
 me of December 5, 1890 And I am not looking for a new  
 new charge for attacking any person and the fact  
 that doesn't need more trouble The correction Department  
 is denying medical attention the keep my lights off of the  
 time they refuse to wash my cloths I must wash them  
 myself. This looks like case like Jon Burge case in  
 Chicago however at one point I did not have the proper  
 name for my attacker in time the state District Attorney  
 produced me the proper name for which is Daniel

IV.A

If you are claiming injuries as a result of the events you are complaining about,  
 describe your injuries and state what medical treatment you required. Was  
 medical treatment received?

Walters when I was assaulted by correction officers  
 Daniel Walters in relation and regard to the CPL Article  
 730.20 Subdivision (1) number one (It's proper, true, materi-  
 al facts for purpose of Judicial Evidence) that  
 Mc Millian is a violent dangerous incapacitated  
 criminal person



Now on the other page is show and proves that Mr. McMillan was assaulted by correction officer Daniel Walters. Why is not the question the question is did this officer assault Mr. McMillan? like unto Jon Burge, Captain Commander in Chicago, who had his men under his command torture confessions from Black African American suspects in Chicago and Jon Burge was found guilty of lying about torture. He ever said Jon Burge was fired by police, however, Bond in Chicago after being fired from the force and did Federal time in prison while being released from a halfway house in Chicago in 2015. Jon Burge did nearly 4 years in Federal prison. Why did this correction officer assault me,

I can only think torture! Because the officer kept saying Mr. McMillan is guilty as charged. (in support with evidence). There is several reasons why this officer Row up into the cell and attacked Mr. McMillan. The question is is this a violation of the law of Mr. McMillan's constitutional rights, result A Fifth amendment violation.

What I understand is that this happened on or about 10:45 AM Jan 28, 2016. Thursday morning I was attacked in Auburn Correctional Facility. I was attacked by correction officer Daniel Walters because he brought this paper sent by the Department of parole and I took the Fifth Amendment in front of the Board of parole. So I am not even doing parole because one must pursue parole. And I have not pursued parole because I have pleaded innocence in front of the Parole Board and innocence in front of the entire quasi Judicial Administration.

V. Relief:

State what relief you are seeking if you prevail on your complaint.

As to all violation on Award of compensatory damages against The State of New York Department of Correction and its officials correction and Superintendent Harold Graham they are seek in their official and individual capacity including District Attorney Robert Thomas Johnson if possible in an amount of \$777,000.00 \$777,000.00 plus the cost and disbursements of this action including Attorney Fees pursuant to 42 U.S.C. Section 1983, other relief for Mr. Melhew which to the court is just and proper

I declare under penalty of perjury that on \_\_\_\_\_, I delivered this

(Date)

complaint to prison authorities to be mailed to the United States District Court for the Eastern

District of New York.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. I declare under penalty of

perjury that the foregoing is true and correct.

\_\_\_\_\_  
Signature of Plaintiff

\_\_\_\_\_  
Name of Prison Facility

\_\_\_\_\_  
Address

\_\_\_\_\_  
Prisoner ID#